

Sharon Oliver, M.D.

07/12/2021

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4

5 ANDREW LYLES, #667516,

6 Plaintiff,

7 vs. Case No. 2:19-cv-10673

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9 PAPENDICK, et al,

10 Defendants.

11 _____/

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14 The Deposition of SHARON OLIVER, M.D.,

15 Taken Via Hanson Remote,

16 Commencing at 10:30 a.m.,

17 Monday, July 12, 2021,

18 Before Laurel A. Frogner, RMR, CRR, CSR-2495.

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20 (Court reporter, attorneys & witness appearing remotely)

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1 APPEARANCES:

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3 MR. IAN T. CROSS (P83367)

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10 Appearing on behalf of the Plaintiff

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20 Appearing on behalf of the Defendants

21 Sharon Oliver, M.D. and Keith Papendick, M.D.

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1 APPEARANCES (Continued):

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1 A. Not at that time.

2 Q. Okay. And why did you request a colonoscopy for
3 Mr. Lyles?

4 A. Because he continued to have symptoms, and the
5 anoscopy was apparently normal, so I was looking to
6 find a diagnosis, the etiology of his pain and
7 bleeding.

8 Q. What's etiology?

9 A. The cause.

10 Q. The cause of his pain and bleeding?

11 A. Yes.

12 Q. And when you submit this request, who are you
13 submitting the request to?

14 A. Utilization Management.

15 Q. What is Utilization Management?

16 A. They are the people that approve whether or not we
17 can have an outside expert.

18 Q. Okay. I'm going to show you another exhibit. We'll
19 call this Exhibit C.

20 OLIVER DEPOSITION EXHIBIT C,
21 ALTERNATIVE TREATMENT PLAN REQUEST,
22 WAS MARKED BY THE REPORTER
23 FOR IDENTIFICATION

24 BY MR. CROSS:

25 Q. And I believe this is the response that you got from

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1 to do with his anus or his rectum; is that correct?

2 A. On that time it wasn't.

3 Q. And you included Protonix again as a failed
4 outpatient therapy? His Protonix wasn't resolving
5 his symptoms; is that correct?

6 A. Correct.

7 Q. All right. And let's look at the response you got on
8 1-9-17. Can you read the ATP here for the record?

9 A. "ATP medical necessity not demonstrated at this time.
10 When symptoms demonstrate medical necessity,
11 resubmit."

12 Q. What is medical necessity?

13 A. That is it necessary to have this particular avenue
14 of discovery.

15 Q. Did you agree with this ATP?

16 A. You know, I don't think I agree or disagree, but at
17 that time I did choose to look for other avenues to
18 address Mr. Lyles' symptoms.

19 Q. What do you mean when you say you don't agree or
20 disagree?

21 A. What do I mean by that? Hmm, it's something that at
22 that time didn't seem as if we were going to get a
23 gastroenterology consult, so I felt it was important
24 to further address the patient's symptoms.

25 Q. Turning to the second sentence of the ATP, "When

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1 symptoms demonstrated medical necessity, resubmit."

2 When would Mr. Lyles' symptoms demonstrate medical
3 necessity for a colonoscopy?

4 MS. YOUNG: I'm going to object to
5 foundation and also form.

6 THE WITNESS: I think that if he continued
7 to have the symptoms or the symptoms were worsening.

8 BY MR. CROSS:

9 Q. Had the symptoms worsened by this point from when he
10 began having them?

11 A. I felt they had.

12 Q. Did you feel that it was medically necessary for him
13 to have a colonoscopy at this point?

14 A. I submitted for a colonoscopy twice I think at this
15 point or was it three times?

16 Q. Three times.

17 A. You know, I did feel that it was something that was
18 important to get to the diagnosis.

19 Q. And why was it important to get to the diagnosis?

20 A. So that we would know exactly what we were trying to
21 treat.

22 Q. Is there anything that you can do if you disagree
23 with Dr. Papendick's ATP?

24 A. What I did was to resubmit it.

25 Q. Okay. This one is the resubmission of the last one

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1 that you said you disagreed with.

2 MS. YOUNG: Sorry, Ian, you broke up there.

3 Do you mind repeating the question or having the

4 court reporter repeat it back.

5 BY MR. CROSS:

6 Q. Is there an appeals process for ATPs?

7 A. Not at that time.

8 Q. There was not an appeals process?

9 A. No.

10 Q. So Dr. Papendick's decisions were final?

11 A. Yes.

12 Q. When was an appeals process implemented?

13 A. See, we just started with a new electronic medical

14 record system, and it was around that time.

15 Q. Okay. So if they instruct you to resubmit when

16 symptoms -- I'm sorry, I already asked you that

17 question, strike that.

18 I'm going to show you another document.

19 OLIVER DEPOSITION EXHIBIT NUMBER K,

20 DR. PAPENDICK CV,

21 WAS MARKED BY THE REPORTER

22 FOR IDENTIFICATION

23 BY MR. CROSS:

24 Q. This is a resume for Dr. Keith Papendick. We'll call

25 it Exhibit K. I want to direct your attention to